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REMARKS

Claims 1-5 are pending in the application. Applicant has filed the present Amendment in reply to the outstanding Office Action of April 28, 2006, and believes the Amendment to be fully responsive to the Office Action for the reasons set forth below.

Claim 1 has been amended to clarify the patentable subject matter. Support for the amended feature in claim 1 is found on page 7, line 26 through page 8, line 9 and Figs. 2 and 4 of the instant specification. No new matter has been introduced by the amendment to claim 1.

Applicant observes that the Examiner has maintained the rejection of Claims 1-5 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,441,856 to Sugimoto (hereinafter "Sugimoto") in combination with U.S. Patent No. 5,223,935 to Tsuji (hereinafter "Tsuji"). The rejection will be discussed more fully below.

The Examiner rejected arguments that the Sugimoto reference in reciting that the microcomputer initializes the shutter speed to 1/250 second as a middle speed in step S5 teaches away from the claimed feature of the present invention. According to the Examiner, the shutter speed of Sugimoto is set in response to the comparison of the luminance evaluation value (V_y) and the target evaluation value (V_t). When a luminance examining unit determines the amount of light is not appropriate for suppressing disturbances, it makes an initial setting of a shutter to the slowest possible value. Further according to the Examiner, where the calculated shutter speed is lower than the minimum shutter speed (1/30), the microcomputer forcibly sets the shutter speed to the minimum value. The Examiner alleges that inasmuch as the Sugimoto claims are not directed to the first shutter speed settings but rather settings in

response to a determination of a luminance examining unit, the present invention remains obvious over same.

The Examiner also rejected arguments that the Sugimoto reference teaches away from the present invention because the flash lamp is initialized to non-emission time. According to the Examiner, the shutter speed is set in response to the comparison of the luminance evaluation value (V_y) and the target evaluation value (V_t).

The Examiner alleges that Sugimoto teaches all the features of Claim 1 of the present invention but fails to state that the sum total luminance value of all pixels in a field is compared to a predetermined threshold to see if they exceed the threshold. Instead, according to the Examiner, Sugimoto compares a normalized luminance value to a threshold. The Examiner relies on Tsuji for the proposition of controlling the exposure of a camera based on whether the sum total of luminance value of all pixels in a field is greater than a predetermined threshold value. The Examiner then concludes it would have been obvious to include this feature of Tsuji in the camera of Sugimoto. For Claims 2-5, the comments from the previous Office Action were reiterated.

Additionally, the Examiner has taken "Official Notice" that it is well known in the art that when a long exposure time causes a high-luminance portion of an image to reach a saturation state, it is commonly referred to as "blooming" and that when a short exposure time causes an image to reach a dark state, it is commonly referred to as "smearing." The Examiner then concludes that the camera capable of exposure adjustment by Sugimoto and Tsuji automatically detects blooming or smearing based on the luminance of the image.

Applicant respectfully disagrees with the Examiner's allegations pursuant to 35 U.S.C. §103(a) and, as a consequence, Applicant proffers the following arguments directed to patentability of the claimed invention.

Regarding the "Official Notice", Applicant's hereby request the Examiner provide citations to support this position in accordance with 37 C.F.R. 1.104(b)(2).

In order for a rejection of claims to stand and a patent to be denied under 35 U.S.C. §103, the prior art must be such that the subject matter of the present application as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art.

We note that at page four of the Office Action, the Examiner admits that the claims of the present invention are not directed to the first shutter speed setting and illumination settings of the camera. However, the "Field of the Invention" section of the Sugimoto patent states *inter alia* "...the present invention relates to a digital camera for taking a picture of an object by making a flash lamp perform a light-emission with a major light-emission amount and by exposing a picture taking means for a first period." Therefore, the Sugimoto reference is not reasonably pertinent to the particular problem with which the invention is involved and a person of ordinary skill could not reasonably be expected to look to Sugimoto for a solution to the problem facing the present inventor.

The combination of Sugimoto and Tsuji does not make the present invention obvious, nor is there any motivation to combine these references. The scope of Tsuji is limited to electronic cameras, not digital cameras. At the time of the Tsuji reference one skilled in the art would not have been looking to Tsuji to solve the problem of disturbances in the image of digital cameras.

Moreover, the illumination unit includes a light emission unit having a plurality of light emitting elements, which are arranged in a plurality of rows. The light emitting elements in the odd-numbered rows and the light emitting elements in the even-numbered rows are alternately activated under the control of the luminance control unit, in the initial setting. Therefore, it is possible to efficiently use the light emitting elements by initializing the high sensitivity camera and the life of each light emitting element can be lengthened.

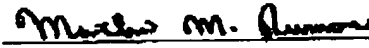
Sugimoto and Tsuji, either alone or in combination, fail to disclose the structure of the illumination unit and the control of the light emission as in claim 1 of the present invention. Further, the combination fails to disclose the function of claim 1. Accordingly, the invention set forth in claim 1 should not be considered as being obvious from the combination of references.

Thus, Applicant respectfully submits that the rejection under 35 U.S.C. §103 is obviated and withdrawal thereof is requested.

An earnest effort has been made to be fully responsive to the Examiner's rejections. In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Passage of this application to allowance is earnestly solicited. However, if for any reason this application is not considered to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,



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